"GRANDFATHERED" VOTING SYSTEMS REPORT
DISCUSSION ITEM ONLY

"Grandfathered" Voting Systems including Datavote InkaVote and Mark-A-Vote ballot/card readers, Optech Eagle and IV-C optical scan voting systems and Microcomputer Tally System (MTS) version 1.3.1 and BCWin (ELNCount version 1.00.0101, ELNPrep version 2.00.0008, ELNUtl version 1.00.0000) central tabulation systems

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I.   SUMMARY

There are currently several voting system components currently certified in California that are not federally qualified. As most of these systems were developed and/or certified before the federally qualification system existed they are commonly referred to as "grandfathered" voting systems.

Some of these systems are due to be phased out before the end of 2005. Specifically the ES&S and Sequoia's EMS/AERO, Sequoia's Teamwork and DIMS Advanced Ballot Count Central tabulation systems are all expected to be replaced before the end of the year.

However, several other certified but unqualified voting systems have vendors and/or counties still interested in using these systems in the future. Several of these vendors and counties have thus inquired about the long-term status of these systems. Specifically, two questions have been raised:
   1) Whether decertification of these systems might be considered at some future date?
   2) If a modification of these systems was required as some future date, would federal qualification be required before said modifications would be considered for certification?

As to decertification, there are currently no proposals before the Voting Systems and Procedures Panel for such action towards any currently certified system.   As for modifications, there is currently no set practice and such applications have been handled on a case-by-case basis in the past.

II.   DESCRPTION OF SPECIFIC SYSTEMS

There are several different voting systems that currently include at least one "grandfathered" voting system component. Below is a description of each.

A. Datavote

Datavote is a punchcard voting system. It is currently used in ten counties (Alpine, Calaveras, Del Norte, El Dorado, Glenn, Imperial, Inyo, San Benito, Sierra and Yolo). The system consists of two parts. The first part is a ballot/card reader. These readers come from several different manufacturers and come in several different versions differentiated primarily by their speed. Most of the certifications for these readers date from the 1970's. There is no firmware version associated with these readers.

The second part is a central tabulation system. Currently, two central tabulation systems support the Datavote system in California (Advanced Ballot Count and Teamwork). Both counties (El Dorado and Yolo) using Advanced Ballot Count plan on replacing their Datavote system by the end of the year. Teamwork, which is currently used in eight

counties (Alpine, Calaveras, Del Norte, Glenn, Imperial, Inyo, San Benito and Sierra), is due to be phased out by Sequoia by the end of the year.

Thus, the only "grandfathered" system components that may exist after the end of the year are the ballot/card readers. Most of these will likely be replaced as part of the HAVA buyout, but it is not definite that all will.

B. InkaVote

Inkavote is an optical scan voting system. It is currently used in only one county (Los Angeles). The system consists of two parts. The first part is a ballot/card reader. The readers are manufactured by LRC. They were certified as part of the InkaVote system in 2002.

The second part is the Microcomputer Tally System (MTS) version 1.3.1 central tabulation system. Version 1.2 was certified in 1998 with version 1.3.1 certified in February of 2004.

It is unclear at this time when and if the county plans on replacing MTS and the LRC readers.

C. Mark-A-Vote

Mark-A-Vote is an optical scan voting system from DFM. It is currently used in ten counties (Butte, Contra Costa, Lake, Madera, Riverside, Santa Cruz, Sonoma, Sutter, Ventura and Yuba). The system consists of two parts. The first part is a ballot/card reader. As with the Datavote system, these readers come from several different manufacturers and come in several different versions differentiated primarily by their speed. Most of the certifications for these readers date from the 1970's. There is no firmware version associated with these readers.

The second part of the system is BCWin (ELNCount version 1.00.0101, ELNPrep version 2.00.0008, ELNUtl version 1.00.0000). BCWin was last modified in 2002.

D. Optech Eagle and IV-C

The Optech Eagle and IV-C (also known as 400C) optical scan voting systems are currently supported by both Sequoia and ES&S. The Sequoia version of this equipment is qualified. However, the ES&S versions are not.

An unqualified version of the Eagle is used in three counties (Amador [version 1.28, 1.50], San Francisco [version 1.30, 1.52RCV] and San Mateo [version 1.30, 1.52]). An unqualified version of the IV-C is used in two counties (San Francisco [version 1.08c] and San Mateo [version 1.07a).

It is not clear at this time whether any of the versions used in the other counties will be used beyond 2005 and whether the vendor will seek qualification of said versions.

III. <u>PUBLIC COMMENT</u>

In response to the public meeting notice being issued and allowing for written submissions, we have received no correspondences specific to this item.

IV. <u>POTENTIAL OPTIONS</u>

There are several options available with respect to "grandfathered" voting systems. Please note these are options, not recommendations. This item was noticed as a discussion item only and thus no formal action should be taken.

1. Continue current practice of treating application for certification of unqualified systems on a case-by-case basis.
2. Allow currently certified systems to continue to be used but require any changes to those systems at a future be federally qualified.
3. Decertify one of more of these systems at some future date (at least 6 months from said action per the Elections Code) unless federal qualification has been obtained by that time.